EXHIBIT 3

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

JOSE ANDRES CAZARES,)
as Special Administrator)
of the Estate of ANDREW)
CAZARES, Deceased and)
FAUSTO T. MANZERA, as Special)
Administrator of the Estate)
of FAUSTO A. MANZERA, et al.,)
Plaintiffs,)
-vs-) No. 13 C 5626
JOSEPH FRUGOLI, et al.,)
Defendants.)

The deposition of KRISTI ALLGOOD called for examination pursuant to Notice and the Rules of Civil Procedure for the United States District Courts pertaining to the taking of depositions, taken before Gina Callahan, a notary public within and for the County of Iroquois and State of Illinois, at 120 North LaSalle Street, Chicago, Illinois, on the 26th day of May, 2016 at the hour of 9:55 a.m.

happened. It can be -- epidemiology can be applied to anything, whether it is an illness, a risk factor, just looking for trends in what the data show. It doesn't have to be based on a disease, but it is part of a medical science.

Q. What do you mean by "trends that the data show"?

A. So you might say there is an increase in obesity rates over time, for instance. That's a trend.

Q. How would you determine that?

A. You would look at the obesity rates at some time point in the beginning and look at what happened at the latter time point and see if there is a difference.

Q. So you're comparing time frames?

A. Sometimes. Or you're comparing different groups of people, age, gender, race, things like that.

Q. Are you a member of any societies or associations?

A. American Public Health Association.

Q. Is that specific to epidemiology?

A. No.

Q. Never heard of it?
A. No.
Q. Do you have any education or experience in criminal justice?
A. No.
Q. Do you have any education or experience in criminology?
A. No.
Q. Do you have any education or experience in policing activities?
A. I have experience in -- from other cases.
Q. Are those the ones you worked on with Mr. Whitman?
A. Yes.
Q. What year did he pass away?
A. 2014.
Q. Other than assisting Mr. Whitman, do you have any other experience or education in policing activities?
A. No.
Q. Do you have any education or experience in law enforcement?
A. No.

Q. Do you have any education or experience in administrative investigations for law enforcement?
A. No.
Q. Do you have any education or experience in disciplinary actions for law enforcement?
A. Aside from the cases.
Q. Aside from the cases you worked on with Mr. Whitman?
A. No.
Q. Is the first case you have worked on without Mr. Whitman?
A. Yes.
Q. Do you have any education or experience in internal affairs of law enforcement?
A. No.
Q. Do you have any experience or education in police practices?
A. No.
Q. Have you ever personally investigated a complaint register?
A. No.
Q. Have you ever been involved in deciding, making a decision about the

allegations of a complaint register?
A. No.
Q. Am I correct that you have no background in the subject matter of police activities?
A. You are correct. Aside from the cases that I worked on.
Q. And how many cases where you worked on with Mr. Whitman?
A. Four.
Q. Do you remember the names?
A. Of the Bricca case, the Moore case, Adams and Padilla.
Q. It was kind of the same case, wasn't it?
A. They were with the same lawyer group, but they were separate records that had different allegations.
Q. Did you work on Bond?
A. No.
Q. So Bricca, Moore, Adams and Padilla?
A. Uh-huh.
Q. Yes?
A. Yes.

Q. The uh-huhs and huhs look the same when they type them.
A. Sorry.
Q. Just make sure if it is a yes, say yes; if it is no, say no. That will help the court reporter.
Now, were you -- in this case, you were retained by the plaintiffs' attorneys?
A. Dr. Whitman was retained.
Q. In this case?
A. Yes. And he passed away before we received the data, and then I was retained.
Q. When were you retained?
A. With Dr. Whitman. It was in the summer of 2013.
Q. Is there a written agreement regarding your retention?
A. There was a letter.
Q. And is it your understanding that the initial retention was of both you and Mr. Whitman?
A. Yes.
Q. Is that what the letter says?
A. I think the letter came after he

passed. I can't remember, honestly, the dates.

Q. Have you authored any reports in any case before this case?

A. Any reports on policing?

Q. Correct.

A. No.

Q. So the author of all the reports on those other cases, those other four cases was Dr. Whitman?

A. Yes.

Q. I think I asked you some of these questions, but let me make sure. You're not a specialist in criminology, are you?

A. No.

Q. You're not a specialist in sociology, are you?

A. No.

Q. You've never done any academic studies of police departments?

A. No.

Q. Have you ever looked at any other police department in any other city or town?

A. No.

Q. Have you ever taken any courses in

criminology?
A. No.
Q. Have you ever interviewed any police officers in any of their work with regard to any of the cases you've worked on?
A. No.
Q. Have you re-interviewed any police officers in the Cazares and Manzera case?
A. No.
Q. Have you consulted with any former police officers about any of your testimony in this case?
A. I don't think so.
Q. Did you consult with any former police officers on any of the other four cases you worked on?
A. No.
Q. Have you ever interviewed any heads of Internal Affairs Divisions of the Chicago Police Department?
A. No.
Q. Have you ever spoken with anyone who is employed by the Internal Affairs Division of the Chicago Police Department regarding anything to

do with your report in this case?
A. No.
Q. Have you ever spoken to anyone in the Internal Affairs Division of the Chicago Police Department about anything?
A. No.
Q. Have you discussed your work in this case with any other professionals in the field of epidemiology?
A. No.
Q. Are there peers in the epidemiology field of yours?
A. Yes.
Q. How would you describe -- well, give me an example of a peer of yours.
A. They would be similar, a similar job code, like they'd also be an epidemiologist or an evaluator, data analyst.
Q. When you say "job code" what do you mean?
A. Job title, I guess.
Q. Does every hospital have an epidemiologist?
A. No.

A. Avon was a long one, but funding is harder to get these days, so it is year to year now.

Q. Do you have to reapply every year?

A. Yes.

Q. And have you -- that process that you just described for the funding, have you ever done that with regard to any police activities?

A. No.

Q. Am I correct your only involvement with police cases is when you worked under Dr. Whitman until this case?

A. Yes.

Q. Have you been retained in any other cases since Dr. Whitman passed?

A. No.

Q. Am I correct that in this case, you were retained along with Dr. Whitman?

A. Uh-huh. Yes.

Q. So is it fair for me to say that you actually have never been individually retained as an expert in any case involving the police?

A. Except this one.

Q. Oh, after he passed?

A. Uh-huh. Yes.
Q. Okay. But I guess I'm -- I think I got it. But you were retained individually after he passed away?
A. Yes, I think.
Q. Okay. But I'm just trying to get a sense of has anyone sought to hire you in any case that Dr. Whitman had no involvement in whatsoever?
A. No.
Q. Let me hand you what we marked as Deposition Exhibit No. 1 which is a copy of the Deposition Notice and Rider.
Phil, it is the dep notice.
MR. BUNTIN: Okay. Thanks.
BY MR. ARGER:
Q. All right. Phil is on the phone there.
We asked for a variety of materials to be produced, largely your file on the case, and I did get some materials from Mr. Newman. Did you produce everything responsive to this list on page 2?
A. Yes.
Q. Just for the record, can you describe

A. I was accepted to University of Michigan for a Ph.D.
Q. What specialty?
A. Epidemiology.
Q. When do you begin that?
A. September 5th, 2016. Yes.
Q. How long of a program is that?
A. Four years.
Q. What does mph?
A. Master's in public health.
Q. Again anything in your education where you took any classes related to police or administrative investigation?
A. No.
Q. Professional experience section on page 1, anything in your background related to police or administrative investigations?
A. Just the self-employed contractor.
Q. That's at the very back, though, isn't it?
A. Well, it is listed here on the front page. It is the third job.
Q. Oh, I see.
Is that just the four cases you worked

A. No.
Q. Now, you've got peer review articles listed under your publications. Did any of those peer review articles involve the police or administrative investigations?
A. No.
Q. Now, these peer review articles, that's different than the problem statements that are peer reviewed, right?
A. Right. So a grant is different than a peer reviewed article.
Q. Okay. Describe to me the process of the articles being peer reviewed.
A. So that varies by the journal, but in general, you submit an article to an editor at a journal. The editor will review it and determine if he or she wants to send it out to a group of peer reviewers. Sometimes you request people to review it and sometimes you don't. They send it out. The reviewers will say they accept the review or not. It takes about a month. They'll read it, give comments back, and decide whether you should have the article accepted or not.

for more information than I've gotten in the past from other cases.

Q. Did you use any of the information that you had from your other four cases for your report in this case?

A. No.

Q. Looking through the rest of your curriculum vitae -- well, let me ask you this.

Am I correct that your report in this case was not peer reviewed?

A. You are correct.

Q. Any particular reason why?

A. Actually, no. I take that back. It was peer reviewed.

Q. By who?

A. Jeff Alpert.

Q. Have you ever spoken to Mr. Alpert?

A. On the telephone.

Q. How many times?

A. Once.

Q. When was it?

A. Sometime in -- I don't know -- December, maybe. Maybe January.

Q. Do you know if he's done a report in

this case?

A. I do not.

Q. Have you ever seen any report that Mr. Alpert did in this case?

A. No.

Q. Have you ever seen the reports of any other -- anyone else in this case?

A. Dr. Roberts.

Q. You did review Dr. Roberts' report?

A. Yes.

Q. Did you review the report of Matthew Hickman?

A. No.

Q. Did you review the report of Jeffrey Noble?

A. No.

Q. Did you review the report of Lou Reiter?

A. No.

Q. Did you review any depositions in this case?

A. No.

Q. Have you reviewed the Complaint in this case?

A. Against Detective Frugoli, yes.
Q. The Complaint. When did you get that?
A. With the disc of other complaints.
Q. Oh. I mean the Complaint that was filed in the courthouse.
A. Oh, no. Sorry. No.
Q. You're talking about the complaint register?
A. Complaint register, yes.
Q. Have you reviewed any of the pleadings that were filed in the courthouse regarding this case?
A. No.
Q. Have you reviewed any of the accident reports regarding this case?
A. If they were included in the CR file, I did.
Q. So the only documents you reviewed are the CR files themselves?
A. Yes. And then there was a list of complaints against the detective I also had.
Q. Detective Frugoli?
A. It was one or two pages, yes.
Q. And I think you listed that in your

report, right?
A. Yes.
Q. Did you ask for your report to be peer reviewed in this case?
A. No.
Q. Do you know why Mr. Alpert was asked to peer review your report in this case?
A. No.
Q. When you spoke with Mr. Alpert, what did you talk about?
A. We talked about the report and just the data in the report.
Q. How long was the call?
A. Maybe half hour.
Q. Who was on the call besides you and Mr. Alpert?
A. No one.
Q. Have you spoken with Mr. Alpert at any other time other than that one call?
A. There was an e-mail.
Q. Other than that e-mail communication?
A. No.
Q. Other than the one call with Dr. Alpert or Mr. Alpert, have you had any other

A. No.

Q. Do you know if he's reviewed anything other than your report in this case?

A. I have no idea what he's reviewed.

Q. And you have not seen any report from him, have you?

A. No.

Q. Do you have any plans to do anything further with regard to data collection or evaluation in this case?

A. No.

Q. Have you asked the plaintiff's attorneys for any additional information for you to review in this case?

A. No.

Q. Is there anything further you feel you need to do to render the opinions you've reached in this case?

A. No.

Q. Have you been asked to testify at trial in this case?

A. Not yet.

Q. Other than potentially being asked to testify at trial, is there anything else you

your civil rights cases on your CV?
A. I didn't author them.
Q. Is the report in this case, in our case, the Manzera and Cazares case, the first report you've actually authored?
A. Yes, for policing things, yes.
Q. You've got a variety of presentations and invited lectures listed on your curriculum vitae, and am I correct the only one that involves policing activities is the second one on page 9 that talks about the Sinai Urban Health Institute monthly staff meeting in October 2014?
A. Yes.
Q. Is that after Dr. Whitman had passed?
A. Yes.
Q. Tell me what are the monthly staff meetings?
A. They are updates of projects or grants or publications for the department.
Q. So is that a meeting? How long do the meetings last?
A. Two hours.
Q. Is that where the whole department just

talks about projects they're working on?
A. Not everybody talks, but usually there is an agenda and if something happened over the month, the person usually talks about it.
Q. Am I correct then that you at that monthly staff meeting on October 2014 would have indicated that you're working on this case?
A. No.
Q. What did you talk about?
A. The department asked me to summarize what I had done with Dr. Whitman during that time, and then that's what I did.
Q. Were any of the other four cases still ongoing when Dr. Whitman passed away?
A. No.
Q. If you remember.
A. I'm not -- Padilla might have. He testified in the Padilla trial shortly before he passed. I'm not sure if it was complete at that point or not.
Q. And you've never testified in any case, have you?
A. No.
Q. Have you ever been qualified as an

expert witness in federal court?
A. No.
Q. Have you ever been qualified as an expert witness in state court?
A. No.
Q. On page 11 in your CV, you've got a listing of your professional training. Did any of that training involve policing or administrative investigations?
A. No.
Q. You've got various professional affiliations listed on page 11, as well. Do you see that?
A. Uh-huh.
Q. Yes?
A. Yes.
Q. None of those involve policing or administrative investigations, do they?
A. No.
Q. You've got professional service listed, and ad hoc peer reviewer. Is that what you were talking about earlier when you said you did some peer review work yourself?
A. Yes.

want to make to the report?
A. No.
Q. All right. Are you aware of what the goals of a discipline system in a metropolitan police department are?
A. No.
Q. Do you know what methods police supervisors use to correct officers' misconduct?
A. Only if it is documented in the CRs.
Q. You didn't do any independent research in that regard?
A. No.
Q. You don't have any independent knowledge in that regard, do you?
A. No.
Q. So how would you characterize your report? Is it a statistical report?
A. Yes.
Q. What's the difference between statistics and epidemiology?
A. Statistics is a mathematics science. Epidemiology is a medical and social science.
MR. ARGER: Can you read that back for me, please?

A. No.
Q. Have you ever asked anyone why Dr. Alpert was reviewing your report in this case?
A. No.
Q. Does it seem strange to you that he would review it?
A. No.
Q. Did he tell you he was going to write a written report?
A. No.
Q. At the last sentence of paragraph 2 of page 1 of your report, it says, you have published 12 peer reviewed articles. Are those the ones that are listed on your CV?
A. Yes.
Q. Now, the next paragraph says you were the data manager and primary analyst in four other legal cases. Those are the four cases with Dr. Whitman we talked about?
A. Yes.
Q. If you were the data manager and the primary analyst, what was Dr. Whitman's role?
A. He was the expert.

Q. And again, you did not use any of the materials from those four other cases as a basis for your opinions in this case, correct?
A. No. Correct.
Q. The next paragraph which is paragraph number 4 it says, the law firm of Cooney and Conway retained me in July of 2013. Is that when both you and Dr. Whitman were retained?
A. Yes.
Q. And at that time the rate of $100 an hour was agreed upon for your time?
A. Yes.
Q. Do you recall what the rate was for Dr. Whitman's time?
A. I do not.
Q. He would have been higher?
A. I assume so.
Q. The last part of that sentence -- I'm sorry. The next sentence, you talk about abstracting data from the provided CRs, analyzing the data and making inferences?
A. Yes.
Q. What do you mean by inferences?
A. Well, you have a sample of data. The

A. The things that have statistical significance are probably not inferences because they here not due to chance.

Q. So you've got an NS written next to -- what's the P value?

A. P value is the probability of something being due to chance or not. If it exceeds .05, it is probably due to chance. If it is lower than that, it is considered statistically significant.

Q. But I need to understand that better, and I know it is a couple pages in the report, but I might as well talk about it now. What is statistical significance?

A. It means that you found a difference, not only was it meaningful but the math behind it shows that it is not due to chance.

Q. But how do you determine that?

A. Apply the statistical test to the data and the computer tells you if it is statistically significant or not.

Q. What type of program is it on the computer?

A. It is called SAS. It is a statistical software.

Q. Is that an acronym for something?

A. Maybe. It is the name of the company.

Q. How do you spell it?

A. S-A-S.

Q. And SAS has a statistical test?

A. Yes.

Q. What is the name of the test?

A. Depending on what you're looking at, I use the Wilcoxson signed-ranked test and to compare medians, and I used the Mantel-Haenszel chi-square test using the rank for comparing percentages.

Q. And you describe those on one of these pages. On page I have as page 5, it is the two paragraphs right above where it says the assignment, right?

A. Uh-huh.

Q. Correct?

A. Yes.

Q. Okay. I guess and this is where you talk about statistical testing significance. So I'm trying to figure out how -- I'm trying to figure out how you just -- how you can make an inference or declare something to be statistically significant versus something that's not a statistically significant?

A. The statistical test measures that.

Q. So this program does it?

A. Yeah.

Q. So do you have any input in that?

A. The data.

Q. So you just put the data in there?

A. And it spits out.

Q. The computer program spits it out whether it is statistically significant or not?

A. Yes.

Q. But how is that? I mean who? Is there a governing body that says whether SAS is statistical test is reasonable or not?

A. It is the standard programming package used by almost every statistician. There is a few other makers of those things. But the statistical tests are what they are. Those are they're well established in statistics.

Q. What is this Wilcoxon test?

A. It is looking at the differences between medians.

A. Right.
Q. So did you change it?
A. No.
Q. This SAS program, is that something I could buy?
A. Yeah.
Q. Is it expensive?
A. It can be, yeah.
Q. How much is it?
A. With our license, it is about 2,500 a year. And we buy multiple licenses to keep the price down.
Q. So you talked earlier about doing the plotting. Do you physically actually do the plotting or is that something that the SAS does?
A. SAS does it.
Q. So how --
A. You could do it by hand.
Q. How would it be different if I bought the SAS program and I put in all of the CR findings, would that be any different than what you found?
A. No.
Q. So I could pretty much come to these

conclusions based on if I put the information in the SAS program, just like you did?
A. I believe so. Yeah. If you applied the right statistic.
Q. And what's the difference between the Wilcoxon test and what was the other one you said?
A. The Mantel-Haenszel.
Q. Mantel-Haenszel which is -- one of them continuous variables and one is categorical variable?
A. Right. So you do median based on age, for example, it is a continuous variable. So you would take an average or you would take the median or both, and you would look at the difference between the groups based on the medians or means using the Wilcoxon test. When you have categories like race, for example, then you would use the Mantel-Haenszel test.
Q. Why?
A. It is the standard statistic for categorical variables.
Q. Who tells you that it is the standard?
A. Statisticians tell us.

A. Yes.
Q. What is a code of silence?
A. It means when officers don't report the misconduct of other officers or that there is a sort of patterns of taking advantage of maybe less discipline for infractions that doesn't get changed by the people who can change them.
Q. If we go to Table 1, you reviewed 66 CR files?
A. Yes.
Q. In addition to that, you reviewed 18 others of Detective Frugoli?
A. Yes.
Q. So you reviewed a total of 84 CRs in this case?
A. I don't know if that's the sum. Yeah.
Q. All right. Well, let's -- that's what I get for jumping around.
Let's go to page 2. You received a DVD on March 27th, 2015 by hand delivery that had 85 PDF files on it; is that right?
A. Okay.
Q. And 65 CRs were for DUI or alcohol-related complaints against CPS members?

A. Yes.
Q. You had one PDF that had just a list of Mr. Frugoli's complaints, right?
A. Yes.
Q. And then you had 19 CR files regarding CRs alleged against Mr. Frugoli?
A. Yes.
Q. One of those CR files was the one for the accident involved in this case, right?
A. Yes.
Q. So that's why that makes the 65 CRs for DUI 66?
A. Right.
Q. So you've got the 65 CRs, plus the 19 CRs from Mr. Frugoli, that's how you get 84 CRs?
A. Yes.
Q. And those are the only CR files you reviewed in this case?
A. Yes.
Q. Is there any reason why you did not review complaint register files for officers who had DUI or alcohol-related complaints when they were on duty?
A. There were some on-duty complaints in

that file.

Q. I think you indicate in your report there were three of the 66 you reviewed?

A. That sounds right.

Q. But I'm talking about were there any others beyond the 66 that were involved?

A. No.

Q. Did you ask?

A. No.

Q. Were you told there were additional CR files?

A. No.

Q. I forgot what you said. You have not reviewed Mr. Lou Reiter's report in this case, have you?

A. No, I have not.

Q. Did you -- you were talking when you do your funding for grants, that you will ask for information that you would then collect and review; is that right?

A. When I write my grants, I ask the funder for information? No.

Q. I thought that's what you said.

A. No. I will tell the funder what I want

to do.
Q. Okay.
A. They'll either agree to it or not, and then I will get the information wherever I need it.
Q. Did you tell the plaintiffs' attorneys in this case what you wanted to do in this case?
A. No.
Q. Did they give you the information and then they asked you to answer some questions based on it?
A. Yes.
Q. Is that unusual for your line of work where you don't have input in what you're reviewing?
A. Not really.
Q. A lot of times people just give you stuff and say --
A. Yes.
Q. -- give me some answers?
A. Yes.
Q. But am I correct you were not involved in any way in deciding what information you were going to review for this case?

A. No.
Q. What I said was correct?
A. What you said was correct.
Q. In the middle of the data sources section on page 2, you have a sentence called the final page of this file contained a SPAR report indicating that there were no sustained findings. Do you see that?
A. Yes.
Q. What is a SPAR report?
A. That's the title of the piece of paper that I was given. It just said SPAR. I don't know what it stands for.
Q. That was my question. Do you know what SPAR stands for?
A. No.
Q. Did you ask for any SPAR reports in this case?
A. No. They were in most of the CR files, though.
Q. Did you ask anyone what the SPAR report meant?
A. No. I mean, the data had when there was data on it, it had the sustained findings.

Q. The reason I asked, if you look at the bottom of page 1, you say you were provided complete CR files for DUI or alcohol-related complaints from members of the CPD for CRs coded as 02D and were initiated from May 10, 2003 the through April 28, 2009.

In the next sentence says, with any CR work DUI, alcohol-related incidents that occurred from May 10th, 2003 through April 10th, 2009. Maybe there just weren't any from April 10 to April 28th. I don't know.

A. I don't know. Those were the dates in the files.

Q. Did you have any input in what dates to use?

A. No.

Q. Is that what was given to you?

A. Yes.

Q. Do you know what is significant about May 10, 2009?

A. I believe that is the incident of Detective Frugoli.

Q. I meant May 10, 2003.

A. No, I don't know.

Q. April 10th, 2009 was the date of the accident?
A. Yes.
Q. Involving Mr. Frugoli, right?
A. Yes.
Q. But in here, you start with the date of May 10, 2003. Do you know what the significance of that date is?
A. No, I do not.
Q. Did you ever ask anybody?
A. No.
Q. At the last phrase on page 1 it says, each PDF was assumed to be the complaint investigation?
A. Yes.
Q. Did you ever confirm that?
A. No.
Q. Did you ever ask anybody if these were complete?
A. No.
Q. So you're just assuming they are?
A. Yes.
Q. So from when you and Dr. Whitman were retained in July of 2003 until you received the

There is a lot of variables.
     Q.   Okay. Thank you.
          Was there anything missing in any of the CR files that you reviewed?
     A.   There was not a lot of information on the age of the officer. There was some redacted information. What happened through the court system, there was a lot of missing information on that. There was sometimes missing data on the blood alcohol levels, when it was measured, if it was measured.
     Q.   Did you ever ask?
     A.   No.
     Q.   For, to get that missing information?
     A.   No.
     Q.   Would it change any of your conclusions if you had some additional information?
     A.   It might.
     Q.   How might it?
     A.   Just depends on what it showed. If there were more people with measurements, there might be differences, but it is not a guarantee. It could also make it look worse.
     Q.   So you just don't know what it would

do, correct?
    A.   I can't answer that without the data.
    Q.   You have a description of what's in the CR files at the bottom of page 2 of your report.
         Am I correct you do not have any experience as to what should or should not be in a CR file, do you?
    A.   I do not.
    Q.   On page 3, you've got what you've titled relevant definitions?
    A.   Yes.
    Q.   How did you choose what words to define?
    A.   I wanted the reader to know what I was referring to when I used these acronyms for things so that there wasn't any confusion on what they were.
    Q.   In the definition of finding, you say that every allegation includes a finding; is that right?
    A.   Yes.
    Q.   Is it your understanding that there are three different findings that the Chicago Police Department can find on a CR?

A. Yes.
Q. Next one says failure to report, the definition of failure to report. Where did you get the words failure to report from?
A. I did learn that from another case. That's a complaint as one of the types of misconduct that someone can get into a CR.
Q. Were you told to look at failure to report in this case?
A. No.
Q. You just include it on your own?
A. Yes.
Q. Because of your other four cases with Dr. Whitman?
A. Yes.
Q. And again, this is another yes/no question that you put on your form?
A. Yes.
Q. So that when you read the complaint register file, you would determine whether there was a failure to report or not?
A. Right.
Q. How did you determine if there was a failure to report?

A. So I would review all of the files and the supporting documentation from the summary of the investigative officer and see if the officer or a witness who was in the car with the officer, who also was an officer filed a report of what happened or what their experience was in that arrest. If there was no report or no documentation of a telephone call by the accused officer, then it is failure to report.

MR. ARGER: Read back that answer for me, please.

(Whereupon, the record was read as requested.)

BY MR. ARGER:

Q. Do you know if there is any rules and regulations in this Chicago Police Department about failure to report another officer's misconduct?

A. Through the reviewing of the files, there was definitely indication that it is an expected -- it is expected.

Q. Is there a rule about it?

A. I assume so. They have a complaint for it.

Q. Do you know?
A. No.
Q. Were one of the allegations of -- I guess what I'm trying to figure out is are you making an inference that there was a failure to report just on the fact that there was no report or telephone call?
A. Yes.
Q. So when you say failure to report, you are not talking about situations where the officer was charged with an allegation of failure to report?
A. No, if they had a complaint listed as one of the allegations as failure to report, it is not considered that. I mean, they would be considered that but...
Q. When you said failure to report, you're not talking about where they were formally charged with a failure to report, correct?
A. No. It was they failed to report and they should have been charged. So it was -- the allegation is not included in the CR.
Q. I think we're talking about the same thing. I just want to make sure.

A. In the process of investigating that complaint, so the wife complained against him, they found that he also had a DUI arrest that was not reported and it was months prior to the initial, the reason why the CR was initiated. So it happened outside of Chicago. It wasn't through dispatch. It wasn't through -- it wasn't reported in the channels that would normally go through when you arrest an officer. But he did have a DUI arrest outside of Chicago. So that wasn't reported until maybe six months later or longer.

Q. So you're saying in that case, that person should have reported himself?

A. Yes.

Q. That he got a DUI outside of the City of Chicago?

A. Yes.

Q. What is your -- do you have an understanding whether there is any rules within the Chicago Police Department about officers reporting when they get a DUI outside of the City of Chicago?

A. I do not, but I assume so from how the

CRs were investigated. There is also a complaint specifically called failure to report. So someone can just have a CR that says failure to report on it as an allegation. So there has to be a rule associated with that.

Q. Are you aware of any DUI or alcohol-related incidents involving Chicago police officers failing to report on themselves other than the ones you looked at in this case?

A. No.

Q. If we go to the bottom of page 3, you then talk about the abstraction process.

A. Uh-huh.

Q. You talk about a data collection tool was generated?

A. Yes.

Q. Is that the form that's Appendix 1?

A. Yes.

Q. And what did you prepared that yourself?

A. Yes.

Q. What did you base that on?

A. I looked at one or two of the CRs. After I read through them and found out what was

A. It is not in the report, it is missing. If it is not there, you can't abstract data that doesn't exist.

Q. How did you account that for in your tables?

A. There is usually a row that shows the number that we're missing or the sample size is noted differently than the 66 records.

Q. Page 4, you have the different information you gathered from each CR file. Again, that's information you would have put on your data collection form?

A. I'm sorry. I don't know you repeat that.

Q. You've got the information gathered from each CR file categorized on page 4, right?

A. Uh-huh.

Q. The third bullet point talks about information about the DUI or alcohol-related incident, and one of the first things you mention is whether it occurred on or off duty?

A. Yes.

Q. My question is: Did you ever ask for the on-duty CR files in this case?

A.   No.
Q.   No?
A.   No.
Q.   Do you know if there are any on-duty CR files?
A.   Only the ones that were included.
Q.   At the bottom of page 4 you talk about data management that the final working data set is based off of the cleaned Excel file. Is that what we marked as Exhibit 4?
A.   Yes.
Q.   Okay. Page 5, you talk about statistical tests of significance. I think we've gone through that.
     Did it ever occur to you that the sample size you were reviewing in this case was too small to make any findings?
A.   You can still make findings on small sample sizes.
Q.   But how can you determine whether that's reliable or not?
A.   That's why you use the statistics.
Q.   That SAS program?
A.   Yes.

Q. At the bottom of page 5, you've listed the assignment.

A. Uh-huh.

Q. And you've got two questions listed. Are those questions that the plaintiffs' attorneys gave you?

A. Yes.

Q. Did you come up with any questions on your own?

A. No.

Q. Question 1 says, did the Chicago police officers have reason to believe in 2009 that they could drink and drive with impunity, without fear of meaningful punishment. Do you see that?

A. Yes.

Q. What do you mean by impunity?

A. That they wouldn't get punished.

Q. And what do you mean by meaningful punishment?

A. If the discipline associated with the incident was meaningful to that officer or if it was in line with the infraction.

Q. How do you determine what is meaningful

A. It is stated in the discussion.
Q. Tell me now.
A. That I think that they did.
Q. What do you base that on?
A. On the tables that I presented in this report.
Q. Which ones specifically answered that question?
A. I would say the -- let's see. Table 1 with the changes in discipline, changes in suspension.
Q. Anything else support your opinion on question 1?
A. No, it is basically about discipline.
Q. Now, I notice you said changes in discipline and changes in suspension from Table 1, right?
A. Uh-huh.
Q. Would you agree with me that 82 percent of the CRs were sustained?
A. Yes.
Q. And how do you decide that you're going to rely on the changes in discipline versus the sustained rate?

A. There are two different things.
Q. Why would you say you agree with me 82 percent is a high sustained rate?
A. It is higher than any other I've seen, yes.
Q. Do you feel that that -- that high sustained rate would be an eternity?
A. Not necessarily.
Q. Why not?
A. Because if they don't get disciplined for that sustained rate, it is really meaningless.
Q. Do you agree with me -- all right. Let's look at this, the suspensions.
MR. ARGER: I'm sorry. Can you read back her answer?
(Whereupon, the record was read as requested.)
BY MR. ARGER:
Q. How many of the sustained cases did not get disciplined at all?
A. Let's see. No initial discipline. There were 18 percent.
Q. Where are you getting that from?

that's how you get your 19 percent?
A. Well, you add the 10 percent and the 9 percent and that's 19 percent, yes.
Q. It is 13 out of 66 or 19 percent?
A. Yes.
Q. But you agree with me if you take out the seven retired, resigned or leave of absence, you're only left with less than 10 percent?
A. You're left with the 9 percent in that line, yeah. I'm not really understanding what that question was.
Q. Do you have any experience with police board hearings?
A. No.
Q. Do you have any experience with police employment agreements?
A. No.
Q. Do you know anything about the grievance process?
A. No, just what was included in the CRs.
Q. Do you have any idea why any of these initial recommended disciplines were changed?
A. Some of them went through grievance processes, yeah.

discipline, why did you choose 30 days as a parameter?

A. That's what most of them had initial discipline with, is 30 days.

Q. Do you agree that 30 days is meaningful and significant?

A. Could be.

Q. Well, is it?

A. It is not really in line with the state, so probably not.

Q. Well, is it in line with other police departments?

A. I don't know.

Q. Is it in line with the standards for police discipline?

A. I don't know.

Q. You're comparing the CR investigation to what a court of law would do with a DUI charge?

A. I am comparing it to what the State of Illinois claims they do for regular citizens who get pulled over for a DUI.

Q. All right. What about those cases where there was no DUI allegation in the CRs

A. Then through the process, either through mediation or whatever reason, the initial finding, the initial discipline recommended by the internal affairs officer gets changed by some level in the department. That's what I think is more meaningful.

Q. But you don't know why it was changed, do you?

A. Sometimes, yeah. Sometimes they had a mediation. In the cases where they didn't have a DUI, I mean, they were suspected for a DUI but they had other things, like there was one where he had a brain tumor and that's why he was driving erratically. Those wouldn't. They would be viewed differently.

Q. But I'm trying to go back to your answer to you answered the question that Chicago police officers have reason to believe in 2009 they could drink and drive with impunity, right? And you're basing that on your review of 66 CR files from 2003 to 2009, right?

A. Yes.

Q. And the only reason you gave me, the only data you gave me that supported your opinion was that there was a change in discipline and a change in the suspensions, right?

A. Yes.

Q. And that's -- my question is: But there still were an overwhelming number that were disciplined. Are you quantifying to say there has to be a certain percentage to get disciplined or do you not quantify it that way?

A. I don't think I quantified it at all. I just reported.

Q. Tell me how many people of the 66 that you reviewed did not get any discipline.

A. Well, there was 68 people. The final discipline, there were seven that did not serve any discipline because they were retired, resigned or they had a leave of absence.

Q. And again, you don't know why they did that, right?

A. No, I do not.

Q. Other than those seven, how many did not receive discipline at all?

A. There were six that had no initial discipline as well.

Q. And two of those were deceased?
A. Yes.
Q. But the four that didn't get disciplined initially are still the only four that ultimately did not get a discipline, right?
A. Except for those that retired. There is not discipline there.
Q. Okay. But that's -- so are you answering the question affirmatively, that police officers have reason to believe they can drink and drive with impunity based solely on the seven?
A. No, it is based on the amount of change in the discipline that was given out.
Q. Well, let's talk about the amount. What's the significant discipline in your opinion?
A. I would say that they would have to have -- if their license is suspended for 12 months, then they should have discipline associated with that 12 months.
Q. What do you base that on?
A. The state tells me that that's the way it is.

Q. Does the state say that that's what internal police investigations are supposed to find?

A. No, that's how I would be treated.

Q. How are you -- what's in your background that gives you the ability to make that opinion?

A. I read the report from the State of Illinois. You could get the same.

Q. So I could make the same opinion?

A. You could.

Q. So are you any different from me making that opinion?

A. Yeah, but I have a background in statistics. You probably don't. I don't know.

Q. I took the class in college.

A. Like everybody has.

Q. You're not using your statistical background; you're just reading a state book that says this is what you get?

A. I'm comparing it against what was in the data. That's the comparison.

Q. I'm just saying what is in your background that is different from mine that says that the officers acted with impunity, could act with impunity and drink and drive?

A. I don't know your background so I can't answer that.

Q. So from someone who doesn't have your statistical background?

A. I don't know. I can't answer it.

Q. I'm trying to understand. With regard to the number of days suspension, it is your opinion that it should be equal to what the law gives you as a punishment, right?

A. Uh-huh.

Q. But there is nothing in your background that gives you the basis to say that, is there?

A. No, but there is a comparison report that states that that is what is supposed to happen; but if that doesn't happen because these people are police officers, that is a problem.

Q. I will move to strike everything after no as unresponsive.

But what in your background gives you the expertise to say that -- how is that any different than anybody else just reading that book and saying that?

was unclear?

A. So when the -- for the other officer, say, they're usually with someone. So there were two CRs where there was another officer in the car with them. And in those cases, I don't believe the other officer reported on the driver. So they would be counted as a failure to report because they didn't report on what they saw for the DUI.

And then for the unclear, there just sometimes was not or in the one case, there was not -- it wasn't very obvious who reported it. So rather than coding it as failure to report, it is just too unclear. You couldn't tell.

Q. Well, if it wasn't clear whether -- these are cases where you said there was no -- there was failure to report, right?

A. Right. But there was no allegation of failure to report listed in the list of allegations for the CR.

Q. If we go back to page 5, the second question you were asked by the plaintiffs' attorneys was, do any of the data speak to whether a code of silence exists in the CPD, right?

A. Uh-huh.

Q. They asked you that question?

A. Yes.

Q. Again, you did not come up with these questions, did you?

A. No.

Q. So the question, do any of the data speak to whether a code of silence exists in the CPD, what data speaks to that in your opinion?

A. The failure to report speaks to that.

Q. Anything else?

A. Most of it. Oh, and also the number of records is very low. It is much lower than expected.

Q. Is that based on the number of DUIs in the state of Illinois?

A. Yes.

Q. Anything else other than your subjective failure to report and the number of records, anything else? Is there any other data that speaks to whether a code of silence exists in the CPD?

A. Not in this set of records.

A. No. He works for that agency so I assume he knows.

Q. Did you read his deposition in this case?

A. No.

Q. Would your opinion change if he testified that he didn't expect -- he -- strike that.

Do you know if he believed the lack of discipline caused him to drink and drive or not?

A. I don't know. I don't know anything about him.

Q. Would your opinion change if he testified that the lack of discipline wouldn't have mattered to him at all?

A. No.

Q. Why not?

A. It just wouldn't.

Q. Does his thinking matter to you at all in your case, in your opinions in this case?

A. Not what he says, I guess. I don't know.

Q. Well, does it matter what he was thinking?

A. I don't know what he was thinking.
Q. Well, does it matter to you what he was thinking?
A. I have to assume he was thinking that he worked for an agency that doesn't really discipline their officers and that's the way it is.
Q. What if the fact was he did not think that way?
A. I don't know.
Q. Would it change your opinion?
A. No.
Q. So it doesn't matter to you what he was thinking?
A. If it is not in the reports, then I can't make any.
Q. Did you ever ask anyone what Mr. Frugoli testified to in this case?
A. No.
Q. On page 6, you start talking about the results.
A. Okay.
Q. In the middle of the paragraph that begins with Table 1 displays.

report as not being statistically significant. Why is it not statistically significant who failed to report?

A. That's what came out when you applied the statistic.

Q. Is that what that -- what was that program called?

A. SAS.

Q. SAS?

A. Yes.

Q. So you're just basically putting in there what SAS tells you to put in there?

A. SAS runs the statistical test by the computer. It is not done by hand. The computer does it.

Q. And the computer will tell you whether it is statistically significant or not?

A. Yeah.

Q. If it says it is not, then you put NS on it?

A. Right.

Q. Do you know how many of the 22 failure to reports outside of Chicago were charged by an investigating officer in the City of Chicago?

Q. Yeah.
A. Those are the officers that were named in the CRs that Frugoli was named in, but they weren't Frugoli. There were usually other officers with him.
Q. I guess what I'm trying to figure out is why it is 11 percent?
A. Because that applies to Detective Frugoli.
Q. And the 9 percent is the people that were charged with him?
A. Yes.
Q. Did you do any independent evaluation of any of the CRs involving Detective Frugoli as to whether or not they should have been sustained?
A. I don't know what you mean.
Q. Well, you don't have any background in determining when a CR should be sustained or not, do you?
A. No.
Q. So you don't have any opinion whether any of those CRs should have been sustained or whether they were properly not sustained, do

you?
A. No.
Q. I take that back. We got one more table. Table 13.
Well, that just discusses the stuff we were just talking about, right? Yeah. All right. Part 3. The discussion. Again you wrote all of this yourself?
A. Yes.
Q. No one assisted you?
A. No.
Q. Okay. You say the most prominent finding related to the CR is that nearly half of the overall CPD members with a DUI CR resulted in reduced or no discipline.
Again, when you say nearly half, can you tell me what number you're talking about?
A. I think it was around 50 percent.
Q. And can you show me in Table 1 how can I calculate that 50 percent?
A. It might have been 40 something. I can't remember.
Q. Well, you did say nearly.
A. I said nearly.

A. So they wouldn't experience discipline. Detective Frugolis and the people named on his complaints. So there is no discipline associated with any of these complaints because none of them were sustained.

Q. But I asked you. You have no reason to think that they should have been sustained, do you?

A. It doesn't matter. That's what they were reported as. If they're reported as not sustained, they're not sustained.

Q. Well, if the true facts are that the conduct did not rise to the level of a violation?

A. I can't say. Well, there was a --

Q. You don't know one way or the other, I guess, is my point, correct?

A. No. Correct.

Q. I'm just trying to get -- to understand these statements in your report. So when you say something like even under extreme circumstances such as DUI, CPD members are not disciplined, you're not saying they are never disciplined, you're saying that it was reduced

Q. For other officers.
A. I don't know.
Q. Do you have any evidence that members of the Chicago Police Department are treated any differently by the court system?
A. No.
Q. Do you agree with me that all the DUI allegations in the CR files you reviewed were investigated?
A. Yes.
Q. And you agree that the vast majority, they were disciplined over and above whatever they were given as a sentence in the court system?
A. They were disciplined over and above what they were?
Q. I will just strike that and say do you agree with me that the vast majority of the CRs were -- resulted in discipline?
A. Yes.
Q. Let me look through my notes here.
Well, let me ask you a question about the American Statistical Association Ethical Guidelines for Statistical Practice. I just

were treated any differently in that regard?
A. Differently to who between who?
Q. As to a regular citizen.
A. I don't know.
Q. Do you agree with me that the best evidence of Detective Frugoli's state of mind is his own testimony?
A. I don't know.
Q. Are there any guidelines that you operate under when you answer the questions that are posed to you by the plaintiffs' attorneys in this case?
A. No.
Q. Is there any guideline to an epidemiologist when they're asked to consult like you've been asked in this case?
A. There may be. I don't know. I'm not aware of any.
Q. What keeps you from saying anything you want versus something that's reasonably reliable?
A. Well, the data has to be there. I am not just going to make things up.
Q. But the conclusions you draw from the

data, is there any guideline or standard that I can look at to say whether or not it is reasonable?

A. I don't think so. I don't know.

Q. Have you been asked to consult in any other legal cases other than the ones that you've been retained with Dr. Whitman?

A. No.

MR. ARGER: That's all the questions I have. Thanks for your time today.

MR. NEWMAN: I have a few questions.

MR. SORICH: Jim, I've got a couple. Why don't I ask before you go ahead here?

EXAMINATION

BY MR. SORICH:

Q. Just to clarify a couple of things. You were asked some questions about demographics of accused CPD members and it was in your report. Specifically, I'm looking at two pages prior to your signature. Do you remember when you were asked those questions?

A. Yes.

Q. And counsel asked you some questions about the distinction between the average age of

Q. You did not review any of the depositions in this case?
A. No.
Q. Didn't look at any of the reports for this case?
A. No. Well, the Roberts report.
Q. Judy Roberts' report?
A. Yes.
Q. You didn't review any of the police reports for the Frugoli accident, did you?
A. Yeah. They were included in the CR.
Q. Okay. I'm just trying to figure out all of your opinions in this case -- well, strike that.
You are not qualified to render any opinion as to what effect the code of silence had on the facts of this case, are you?
A. I don't know what you mean.
Q. Well, you're saying there is a code of silence based on the data you looked at, right?
A. Yes.
Q. My question is: Without an understanding of police practices and administrative investigations, you don't have